

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
ZENA DENISE CRENSHAW LOGAL,)	CASE NO. 05-67947 JPK
)	Chapter 7
Debtor.)	
*****)	
ZENA DENISE CRENSHAW LOGAL,)	
Plaintiff,)	
v.)	ADVERSARY NO. 06-6045
EDUCATIONAL CREDIT MANAGEMENT)	
CORPORATION, STATE OF INDIANA,)	
SUPREME COURT OF INDIANA,)	
Defendants.)	
)	
UNITED STATES OF AMERICA)	
Intervenor Defendant)	

ORDER CONCERNING FURTHER PROCEEDINGS WITH
RESPECT TO MATTERS RELATING TO THE PLAINTIFF

This adversary proceeding was initiated by a complaint filed by the plaintiff Zena Denise Crenshaw Logal on February 14, 2006. That complaint asserted matters in relation to Great Lakes Higher Education Guaranty Corporation, the State of Indiana, and the Indiana Supreme Court. By order entered on July 26, 2006, Educational Credit Management Corporation was substituted as a party defendant for the originally designated defendant, Great Lakes Higher Education Guaranty Corporation. On August 24, 2006, Crenshaw Logal filed an amended complaint. By order entered on October 25, 2007, Count II of the plaintiff's amended complaint was dismissed with prejudice as to the defendants State of Indiana and the Indiana Supreme Court. That order also scheduled further proceedings with respect to the plaintiff's assertion of potential unconstitutionality of 11 U.S.C. § 523(a)(7), and whether that assertion would be the subject of notice to the United States of America pursuant to 28 U.S.C. § 2403(a). By order entered on January 7, 2008, the Motion to Intervene Pursuant to 28 U.S.C. § 2403(a) filed by the United States of America on December 14, 2007 was granted, and the United States of

America became a party in this adversary proceeding.

Meanwhile, on November 15, 2007, the defendant Educational Credit Management Corporation filed its Amended Motion to Set Matter for Status, to which were attached two orders entered by the United States Court of Appeals for the Seventh Circuit in relation to the plaintiff. The effect of the orders of the United States Court of Appeals for the Seventh Circuit were first addressed at a preliminary pre-trial conference held on February 15, 2008. Pursuant to order entered by the Court on March 12, 2008, a telephonic conference was scheduled for April 16, 2008 with respect to the effect of those orders on further proceedings in this adversary proceeding.

At the telephonic conference held on April 16, 2008, the plaintiff appeared personally; the United States of America appeared by counsel Neil M. Peretz; and Educational Credit Management Corporation appeared by counsel Stacia L. Yoon.

The Court now enters its order with respect to the effect of the orders of the United States Court of Appeals for the Seventh Circuit concerning the plaintiff in relation to matters in this adversary proceeding. The effect of those orders on further proceedings in this adversary proceeding is the sole determination made by this order.

On January 5, 2007, the United States Court of Appeals for the Seventh Circuit entered the following order in the case of *Zena D. Crenshaw v. Joan S. Antokol, et al.*, proceeding before the Court of Appeals as case number 06-2046:

Our order in this appeal directed appellant Zena Crenshaw to show cause why she should not be sanctioned under Fed.R.App.P. 38 for taking a frivolous appeal. In her response, she instead petitioned for rehearing, reiterating that this appeal is part of her on-going campaign against abuses she perceives within the judicial system.

But it is Crenshaw that has abused the system: whenever she finds herself on the losing end of a matter, she sues the opposing litigants and their attorneys (in this case alone there were 15 defendants), repeatedly alleging that they conspired with presiding

judges to receive favorable outcomes. See *Crenshaw v. Baynerd*, 180 F.3d 866 (7th Cir. 1999); *Crenshaw v. Supreme Court of Indiana*, 170 F.3d 725 (7th Cir. 1999); *Crenshaw v. Hodgson*, 24 Fed.Appx. 619, 621 (7th Cir. Dec. 20, 2001); *Crenshaw v. Antokol, et al.*, No. 06-2046 (7th Cir. Nov. 16, 2006). All of these suits were dismissed; the only so-called "evidence" of conspiracy that Crenshaw has ever offered is her losing record. In fact, although she is an attorney, Crenshaw is currently suspended from the Indiana state bar and both the Northern and Southern Districts of Indiana for making such allegations against Indiana state judges. *In re Crenshaw*, 815 N.E.2d 1013 (Ind. 2004); *In re Crenshaw*, 130 Fed.Appx. 829 (7th Cir. May 12, 2005); *In re Crenshaw*, No. 06-2585 (7th Cir. Sep. 25, 2006).

This must stop. "The judicial system cannot tolerate litigants who refuse to accept adverse decisions." *Homola v. McNamara*, 59 F.3d 647, 651 (7th Cir. 1995). Accordingly, the petition for rehearing is DENIED, and the court makes this order as a Rule 38 sanction:

Crenshaw is fined \$1,000, payable to the Clerk of this Court. If this fine is not paid in 14 days, we will enter an order under *Support Systems International, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995), precluding Crenshaw from conducting civil litigation (other than as a petitioner seeking release from confinement) in all courts within this circuit until the fine has been paid in full.

On August 24, 2007, the United States Court of Appeals for the Seventh Circuit entered the following order in its case number 06-2046:

On January 5, 2007, this court sanctioned Zena D. Crenshaw \$1,000 for filing a frivolous appeal. The sanction was to be paid to the clerk of this court on or before January 19, 2007, but appellant has failed to pay the sanction.

Accordingly, IT IS ORDERED that the clerks of all federal courts in this circuit are directed to return unfiled any papers submitted either directly or indirectly by or on behalf of Zena D. Crenshaw unless and until she pays in full the sanction that has been imposed against her. See *Support Systems Int'l Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995) (per curiam). In accordance with our decision in *Mack*, exceptions to this filing bar are made for criminal cases and for applications for writs of habeas corpus. See *id.* at 186-87.

IT IS FURTHER ORDERED that Zena D. Crenshaw is authorized to submit to this court, no earlier than two years from the date of this order, a motion to modify or rescind this order.

The issue before the Court is the effect of the foregoing orders of the United States Court of Appeals for the Seventh Circuit with respect to the plaintiff's ability to pursue or defend with respect to matters in this adversary proceeding.

The August 24, 2007 order is clear and unequivocal: Crenshaw Logal is precluded from filing any paper with this court in this adversary proceeding on and after August 24, 2007.

While the order states that "the clerks of all federal courts in this circuit are directed to return unfiled any papers submitted . . . by or on behalf of Zena D. Crenshaw", this order is effective with respect to the United States Bankruptcy Court for the Northern District of Indiana as a court. The clerk is merely the conduit through which matters are filed with the court; Fed. R. Bank. P. 7005/ Fed.R.Civ.P. 5(e). The order refers to "papers", which under the provisions of Fed.R.Bankr.P. 7005/Fed.R.Civ.P. 5(a) and Fed.R.Bankr.P. 9011 is anything filed with the court, including by electronic means.

Matters in this adversary proceeding proceeded unabated without cognizance of the orders of the United States Court of Appeals for the Seventh Circuit until the motion filed by Educational Credit Management Corporation on November 15, 2007. However, all matters in this adversary proceeding which occurred after August 24, 2007 related to papers filed by the plaintiff prior to that date.

The issue then resolves to the extent to which the plaintiff may proceed in this adversary proceeding with respect to Educational Credit Management Corporation and the United States of America within the parameters of the United States Court of Appeals' order entered on August 24, 2007, and with respect to any matter relating to appeal of the court's order of October 25, 2007 concerning the defendants State of Indiana and the Indiana Supreme Court.

As stated in its order of August 24, 2007, the underpinning for the Seventh Circuit Court of Appeals' order is the case of *Support Systems International, Inc. v. Mack*, 45 F.3d 185 (7th

Cir. 1995). In that case, the United States Court of Appeals for the Seventh Circuit entered an injunction against Richard Mack to address his frivolous and repeated filings in federal courts, which ordered the courts of the United States in the Seventh Circuit to return unfiled any papers submitted, either directly or indirectly, by or on behalf of Richard Mack, with the sole exceptions of matters relating to a criminal case in which Mack was a defendant concerning applications for writs of habeas corpus, and other matters relating to criminal cases in which Mack was the defendant. Thus, the predicate for the August 24, 2007 order issued in relation to Crenshaw Logal is an injunction intended to preclude her filing of papers in civil actions.

As noted above, this adversary proceeding was initiated by a complaint which precedes the Seventh Circuit's August 24, 2007 order. The action is proceeding on an amended complaint which also preceded the August 24, 2007 order. While at times difficult to discern from the pleadings filed by the plaintiff, the gist of the action has three foci. The first is essentially a declaratory judgment action to determine whether her indebtedness to Educational Credit Management Corporation is subject to the provisions of 11 U.S.C. § 523(a)(8) in view of her assertion of "an undue hardship on the debtor and the debtor's dependents" in relation to that debt. Because 11 U.S.C. § 523(a)(8) explicitly provides for this "defense" to the exception from discharge otherwise provided by that statute, and because Crenshaw Logal's action in relation to this determination was filed prior to the entry of the Seventh Circuit's order on August 24, 2007, the Court determines that further proceedings in relation to Crenshaw Logal's assertion that her indebtedness to Educational Credit Management Corporation is not excepted from discharge by virtue of the "undue hardship" provisions of 11 U.S.C. § 523(a)(8) are not precluded by the August 24, 2007 order— that order prohibits the filing of papers, not the continuation of a litigated matter. As a result, that action will continue unabated by any effect of the August 24, 2007 order entered by the United States Court of Appeals for the Seventh Circuit. However, pursuant to the August 24, 2007 order, any further filings by Crenshaw Logal

are precluded in relation to this issue. Thus, the order precludes the filing of a joint pre-trial order by the parties to this issue, and Crenshaw Logal's filing of a pre-trial or post-trial legal memorandum. The court will not disadvantage Crenshaw Logal in her legitimate defense of undue hardship, and thus no opportunity will be provided to Educational Credit Management Corporation to file any legal memorandum or other document in support of its position. The court will schedule a preliminary pretrial conference in relation to Count I of the amended complaint by separate order, at which conference the court will establish a discovery deadline, and set a final pre-trial conference and trial date. Because Fed.R.Bank.P. 7005/ Fed.R.Civ.P. 5(d) prohibits the filing of papers related to written discovery, neither party shall file papers within the scope of that rule. If a discovery dispute should arise, Crenshaw Logal cannot file any paper in relation to that dispute. If Educational Credit Management Corporation deems it necessary to present a discovery dispute to the court, it shall file a motion seeking leave to do so in advance of the filing of the motion to present the discovery dispute itself; this advance motion shall specify the nature of the dispute, the steps taken to seek to resolve it, and the specific authority which will be relied upon in the motion proposed to be filed in relation to the dispute.

On October 25, 2007, the Court entered its order dismissing the amended complaint's assertion of claims against the State of Indiana and the Indiana Supreme Court. Because the amended complaint asserted matters in addition to those asserted against those defendants, by operation of Fed.R.Bankr.P. 7054/Fed.R.Civ.P. 54(b), that order is not a final judgment with respect to this adversary proceeding in relation to the plaintiff's claims against the State of Indiana and the Indiana Supreme Court. Because the plaintiff's adversary proceeding was initiated prior to the August 24, 2007 order of the United States Court of Appeals for the Seventh Circuit, and all pertinent matters with respect to all parties were before the Court prior to entry of the August 24, 2007 order, when a fully final judgment has been entered in this

adversary proceeding, further actions by Crenshaw Logal in relation to possible appeal by her of that final judgment will not be subject to the preclusion of filing established by the August 24, 2007 order – to do so would be patently unfair, possibly unconstitutional, and outside the intent of the August 24, 2007 order given the pendency and development of this action prior to its entry.

Finally, we come to Crenshaw Logal's assertions that 11 U.S.C. § 523(a)(7) violates the United States Constitution because the statute does not provide an exception to its exception to discharge for a class of professionals who have been precluded by a licensing authority from practicing their profession in circumstances in which a debtor asserts that the payment of a fine or penalty to reinstate a professional license is precluded due to a debtor's financial hardship. As the record in this case discloses, delineating the plaintiff's assertions in this context has been a tortuous process. The Court has construed pleadings in this case to potentially raise a constitutional challenge by the plaintiff to 11 U.S.C. § 523(a)(7), and on that basis the Court provided the opportunity to the United States of America to intervene in this action and granted the government's motion to intervene based upon that invitation. The record in this context was not closed prior to the August 24, 2007 order of the Seventh Circuit. The Court, which must adhere to orders of the United States Court of Appeals for the Seventh Circuit, determines that any further filing by Crenshaw Logal in the United States Bankruptcy Court for the Northern District of Indiana with respect to her affirmative assertion that 11 U.S.C. § 523(a)(7) violates the Constitution of the United States is precluded by the order entered by the United States Court of Appeals for the Seventh Circuit on August 24, 2007. Again, in fairness, the court will not allow the United States of America to file further papers with respect to this issue, either. As a result, the record with respect to that assertion by the plaintiff is closed, and Crenshaw Logal may not file any further documents, pleadings or other papers with the Court with respect to that assertion.

IT IS ORDERED as follows:

A. Further proceedings with respect to determination of the imposition of “an undue hardship on the debtor and the debtor’s dependents” with respect to the indebtedness owed by Crenshaw Logal to Educational Credit Management Corporation, within the scope of 11 U.S.C. § 523(a)(8), shall proceed as stated above, subject to separate order of the Court scheduling a discovery deadline, a final pretrial conference, and trial.

B. The Court’s order entered on October 25, 2007 with respect to whether the indebtedness owed by Crenshaw Logal in relation to the Indiana Supreme Court and the State of Indiana is within the scope of 11 U.S.C. § 523(a)(7) is not subject to appeal at this time, as that order is not a final judgment. When a final judgment is entered in this adversary proceeding, possible appeal by Crenshaw Logal will not be precluded by the August 24, 2007 order of the Seventh Circuit.

C. Any further filings by Crenshaw Logal with respect to her assertions that 11 U.S.C. § 523(a)(7) violates the United States Constitution are within the scope of the above-described order entered by the United States Court of Appeals for the Seventh Circuit on August 24, 2007, and Crenshaw Logal and the United States of America are precluded from filing any further papers in this adversary proceeding in relation to that issue. The Court will determine this issue based upon the existing record.

Dated at Hammond, Indiana on July 10, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Zena Denise Crenshaw Logal
Attorneys of Record